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Patent
Serial No. 10/014,258
Amendment in Reply to Final Office Action of July 25, 2006

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated July 25, 2006. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-29 are pending in the Application. Claims 1, 15 and 28 are independent claims.

Claim 1 is amended herein to be accordance with Claim 15 as previously presented. Specifically, requiring "extracting from said video signal video enhanced content information representative of at least one marked product presented on the video program ...". No new matter is provided by this amendment nor should a further search be required as this element, as provided, already was present in Claim 15. This amendment is provided to consolidate issues should an appeal on these issues be required.

Claim 6 is amended herein to clarify what was already required by the claim as previously presented. Claim 6 as previously provided required "the step of negotiating with the product source by offering a price the user is willing to pay other than a price initially offered by the source" and as similarly required by each of Claims 20 and 28. The Office Action, has taken the untenable

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position (see, Office Action, page 8, third paragraph) that a selection to not purchase an item, as specifically presented, "WANT TO ORDER THE CD NOW? YES OR NO" as provided in FIG. 4D of Reichardt, is an offer to pay the price of \$0.00 for an item. In fact, Reichardt provides no opportunity for negotiation! Reichardt merely presents a take it or leave it price. There is no negotiation or expectation that the provider will sell the item for \$0.00. A negotiation is "the reaching of agreement through discussion and compromise" as provided in the Encarta® World English Dictionary [North American Edition] © & (P) 1998-2003 Microsoft Corporation. A take it or leave it offer as provided by Reichardt is the antithesis of a negotiation! Accordingly, Claim 6 (and substantially Claims 20 and 28) is provided herein to require "the step of negotiating with the product source by offering a price the user is willing to pay to buy the product of interest other than a price initially offered by the source" which in fact in the English language is the only fair interpretation of the claims as previously provided. It is respectfully submitted that no new matter is provided by these amendments. It is respectfully submitted that these amendments are provided herein to highlight what is the only fair interpretation of the claims as previously

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provided. Accordingly, entrance of the amendments and consideration of these claims is respectfully requested.

Claims 1, 2, 4, 5, 7-16, 18, 19 and 21-27 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent Publication No. 2002/0128999 to Fuisz ("Fuisz"). Claims 3, 6, 17, 20, and 27-29 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Fuisz in view of U.S. Patent Publication No. 2003/0056219 to Reichardt ("Reichardt").

These rejections are respectfully traversed.

It is respectfully submitted that the method of Claim 1 is not anticipated or made obvious by the teachings of Fuisz. For example, Fuisz does disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "extracting from said video signal video enhanced content information representative of at least marked one product presented on the video program; presenting to the user the video enhanced content information" as required by Claim 1, and as substantially required by of Claim 15.

As previously discussed, Fuisz shows a system for marketing products shown in a video signal. Fuisz compares a selected object to known shapes of objects to determine the selected object (see,

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page 2, paragraph [0027], lines 1-7). The Office Action relies on paragraphs 25-29 and FIG. 3, item 14 for showing these features of the claims, however, reliance on these sections is misplaced. As is clear from Fuisz, an overlay screen is provided dividing into X and Y coordinates to "mark the position of objects in the video ... [which is] made available to the computing means." (See, Fuisz, paragraph [0026] lines 4-9.) In Fuisz, the overlay is merely a way for the computing means to identify a location of the selected object. There is no suggestion that this overlay information be presented to the user, nor would this modification, in terms of the Fuisz overlay, make any sense in the context of Fuisz. The overlay is merely utilized to provide location information to the computing means. There certainly is no suggestion that this overlay is utilized so that the user knows an item is available, or in terms of the claims, that the item is marked.

It is respectfully submitted that it is the Applicants of the present application that recognized that "[t]he content producer can customize each region if desired." (See, the present patent application, page 16, line 6.) For example, "[t]he items for sale in a frame can also be marked, so that the user knows that these

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are available." (See, the present patent application, page 16, lines 12-13.)

Based on the foregoing, the Applicants respectfully submit that independent Claims 1 and 15 are patentable over Fuisz and notice to this effect is earnestly solicited. Claims 2-14 and 16-27 respectively depend from one of Claims 1 and 15 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

It is further respectfully submitted that the method of Claim 28 is not anticipated or made obvious by the teachings of Fuisz in view of Reichardt. For example, Fuisz in view of Reichardt does disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis provided) "negotiating with the identified product source by offering a price the user is willing to pay to buy the product of interest other than a price initially offered by the source regarding the selected product" as required by Claim 28, and as substantially required by Claims 6 and 20. While Reichardt does provide a take it or leave offer to sell

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an item as discussed in more detail above, this not a negotiation nor an offering of a price the user is willing to pay ..."

Based on the foregoing, the Applicants respectfully submit that independent Claim 28, and for that matter Claims 6 and 20 are patentable over Fuisz in view of Reichardt and notice to this effect is earnestly solicited. Claim 29 depends from Claim 28 and accordingly is allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Claims 6 and 20 should be considered allowable also for this additional reason as well as based on their respective dependencies. Accordingly, separate consideration is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
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THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101